



**Department of
Consumer Affairs**

**Statement of Fran Freedman
Associate Commissioner
Department of Consumer Affairs
before the City Council Committee
on Consumer Affairs on Intro 853**

November 6, 2008

Good morning, Chairman Comrie, and Committee members. I am Fran Freedman, Associate Commissioner for the Department of Consumer Affairs. Commissioner Mintz asked me to thank you for the opportunity to appear before you at your hearing on Intro 853. This bill would raise the trigger for requiring a premises to be licensed as an amusement arcade from the presence of five or more devices instead to 10 or more.

New regulation always should be targeted to address real problems; and at the same time, the relaxing of public regulations should be based upon data demonstrating a significant lessening of the concerns which led to such regulation in the first place, particularly in the ambit of public safety and community quality of life issues. Given that precept, this Administration is concerned that Intro 853 may not be wise.

For context, DCA licenses amusement arcades throughout the City, of which there are 20. Most notably, only three of those 20 operate five or more, but less than 10 devices. The annual license fee for an arcade is \$340.

Businesses required to be licensed as arcades are subject to public safety and quality of life regulations that most notably could include the ability of the Commissioner to prescribe the conditions for operations to minimize adverse impact on the surrounding area, including requirements for security and supervision and hours of operation. The authority to do so is particularly important given the historical attraction of minors and concerns regarding truancy. Other regulations govern prize redemption to inhibit gambling and pricing and rule disclosures to ensure fair playing conditions.

Also of particular concern is the interplay between the requirement for the licensing of arcades and the zoning resolutions that prescribe where they may be located. These zoning requirements were enacted to limit unwelcome community impact given arcades' traditional role as magnets that draw in crowds of players engaged in competitive gaming that can lead to boisterous behavior.

This Department is unaware of either data or public sentiment that would suggest that a location with nine devices, for example, was no longer the type of establishment that might raise these public concerns. An establishment with only four devices or fewer does seem intuitively of lesser concern. Beyond intuitive appeal, we would note as illustrative, the licensing requirement for the recently-enacted authorization to operate internet cafés. There, this Committee required that an establishment need have only *three* or more computers or electronic devices before triggering regulatory concern.

One final note that may be of help to this Committee – a few years back the Department interpreted the law's "5 or more trigger" to address the advent in the industry of "linked devices" and multi-person play. To clarify for this Committee, that interpretation holds that if a single device can accommodate more than one player, it is nonetheless considered a single device for purposes of the numerical trigger; but the ability of multiple devices to be linked to each other to accommodate joint play does not transform such linked devices into a single device.

Thank you for this opportunity to comment. I will be glad to answer your questions.

Testimony of Cary David Kessler, Esq. before the Committee on Consumer Affairs, November 6, 2008 at 10:00 a.m.

INTRODUCTION

Beginning in the early 1990's, the New York City Department of Consumer Affairs began to review its regulatory functions. After that review, the Department produced a report, dated September, 1994 entitled "Rethinking the Agency's Regulatory Functions" (An agenda to Provide Small Business Relief and Enhance Consumer Protection). Of great importance in the report is the repeal of any licensing for coin-operated devices which are defined in the New York City Administrative Code, Sub Chapter 3, Amusement Devices, Arcades and Operators __ 20-211 Definitions (player-operated amusement device). It was clear, based on consumer complaints the Department tracked that the incidents involving coin-operated amusement devices or games were, if not zero, negligible.

In 1995, along with many other consumer affair licenses, a license for "common shows" (meaning coin operated amusement devices) was repealed by the City Council and signed into law by the Mayor.

Remaining in the New York City Statutes were licenses to operate an amusement arcade under __20 211 of rthe Code (amusement devices, arcades and operators) meaning "any premises

wherein there are operated, in any combination five or more of the amusement devices and/or player operated amusement devices...) Please note that juke boxes are not counted for this definition.

Amusement machines have changed in size over the years, perhaps fifty (50) years ago, it made good law to limit a location to four (4) machines; now, it does not – amusement machines are smaller – some models fit on counters or tables.

In 2000, AMOA-NY requested permission to add some type of machines to locations.

TWO HEADED GAMES/LINKED GAMES

In 2001, THEN Commissioner of Consumer Affairs Jane S. Hoffman granted locations the right to have two amusement machine games that connect with each other counted as one. Locations were able to increase the amount of the amusement machines on their premises. That privilege was rescinded by the Department in 2003.

In 2003, Deputy Commissioner Jonathan Mintz, now Commissioner, said that the Departments decision was based on “our understanding of our responsibilities under the existing law. This issue we were told...” has spurred an internal inquiry regarding the proper regulatory role, if any for this industry.”

That was in 2003 - now in 2008 five years later, its clear we need the councils help for the amusement machine industry.

I believe the Department licenses over 50,000 businesses and individuals, and received in excess of 173,000 complaints annually.

Whether a location in NYC has four (4) or ten (10) amusement machines is not and should not be on the Department's radar screen !99999

Mr. Chairman, you said the members of this committee recognized the need to help small business when last year legislation was paned to increase the amount of pool tables any establishment may have without the necessity of a license,. Mayor Bloomberg said, when he signeded your legislation into law "This (meaning the existing one table law) puts an unnecessary burden on small businesses, including bars and lounges that have two or more billiard tables but whose main function is not to serve as a billiard room."

Respectfully, introductory no. 853, has the same purpose - helping small businesses survive economically - because getting an arcade license is impossible and too costly.

Over the past fifteen (15) years, I have represented businesses that have received notices from DCA for violating section 20-212 (nlicensed amusement arcades).

Not One violation issued by a police officer or DCA inspector was generated by a consumer - these violations were the result of routine inspections. Once again, the point must be made - there is no threat to the public safety by an establishment with ten (10) amusement machines !

The increased tax revenue for the city will be outlined by other speakers, but please allow me to conclude by saying thank you for considering the plight of an industry that wants to expand its business in NYC, employ more people, and continue being good citizens !



THE CITY OF NEW YORK Department of Consumer Affairs
--NOTICE OF HEARING FOR UNLICENSED ACTIVITY--

NOTICE OF HEARING FOR UNLICENSED ACTIVITY		<input checked="" type="checkbox"/> PL	<input type="checkbox"/> No Violation Observed/Disregard Hearing Information		
THE ABOVE ENTITY IS HEREBY CHARGED WITH VIOLATING TITLE 20 OF THE NYC ADMINISTRATIVE CODE, CHAPTER 2, or ARTICLE NY STATE GENERAL BUSINESS LAW.					
SUBCHAPTER	20	SECTION	212 A	NATURE OF VIOLATION	COUNTS

Unlicensed / Amusement Arcade

The below was observed at Bulwer. At the time of inspection we observed 5 Game 4 video game each two player: Two call TH EACT and THE FURLAW. THIRD CALL NAMED GALAGO, FOURTH ALIENS CHARGE TSG. and OTHER THREE 100 each sign posted, THE FIFTH GAME HOBBY FEVER. FOUR PLAYER INSERT COIN. TSG. We spoke with Arcade employee which could be that fraudulent document DCA Amusement Arcade License Document.

re: complaint

I/WE AFFIRM UNDER PENALTY OF PERJURY THAT I/WE INSPECTED THE CITED PREMISE ON THE DATE AND TIME INDICATED BELOW AND MADE THE OBSERVATIONS CITED HEREIN. I/WE ALSO AFFIRM THAT SERVICE OF A COPY OF THIS DOCUMENT WAS MADE IN THE MANNER AND ON THE DATE AND TIME LISTED BELOW.

DATE SERVED/MAILED	TIME SERVED	DATE OF UNLICENSED ACTIVITY	DESCRIPTION OF PERSON SERVED: SEX		
09/05/07	3:00 pm	09/05/07	APPROX. AGE	APPROX. HEIGHT	APPROX. WEIGHT
CAMIS ID#	TAX ID#	CERT.#		1051742	
NAME (INDIVIDUAL, PARTNERSHIP, CORPORATION)			D.B.A.		
ADDRESS			BORO	ZIP	BUS. CODE
308-16 Flat BUSH AVE			05	11238	01Y
DISTRICT	TELEPHONE NO.	LICENSE NO. (if applicable)	START TIME	END TIME	
	(718) 807- 807		2:15	3:00 pm	
INSPECTOR'S NAME (1)	INSPECTOR'S SIGNATURE (1)	DIV.	UNIT	I.D.	BADGE
(1) M. MAHMOUD	<i>[Signature]</i>	E5F	UC17	22P	3116
INSPECTOR'S NAME (2)	INSPECTOR'S SIGNATURE (2)	DIV.	UNIT	I.D.	BADGE
(2) COMOUNTRIZ	<i>[Signature]</i>	E10FL	C13	191	8106

YOU ARE HEREBY ORDERED TO APPEAR FOR A HEARING ON THE ABOVE CHARGES AT THE ADJUDICATION DIVISION, 66 JOHN STREET, 11TH FLOOR, NEW YORK, NY 10038, ON THIS DATE AND TIME:

OCT 03 2007 AT *9:30* *A.M.* or P.M. *[Signature]*

READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION

VENDOR NAME AND POSITION (PRINT)		VENDOR SIGNATURE		DATE
XXXXXXXXXX		XXXXXXXXXX		09/05/07
REGIDVIST	DATE SETTLED	BY:	PRE-HEARING DISPOSITION	SETTLEMENT OFFICER
<input type="checkbox"/> Y <input type="checkbox"/> N	1 / 1		FINE \$ _____	
		<input type="checkbox"/> PAID <input type="checkbox"/> PAR <input type="checkbox"/> DNP		

WHITE - ADJUDICATION YELLOW - VENDOR PINK - ENFORCEMENT

BRING THIS NOTICE WITH YOU



THE CITY OF NEW YORK DEPARTMENT OF CONSUMER AFFAIRS

NOTICE OF HEARING	<input type="checkbox"/> LL <input type="checkbox"/> WH <input type="checkbox"/> IP <input type="checkbox"/> OL <input type="checkbox"/> GL <input type="checkbox"/> HC <input type="checkbox"/> WO <input type="checkbox"/> _____	DATE MAILED: / /	1 OF
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<input type="checkbox"/> TITLE 20 of the N.Y.C. ADMINISTRATIVE CODE (see column 1, 2, & 3)	<input type="checkbox"/> TITLE 1 of the NY CODES, RULES and REGULATIONS (see column 4)
<input type="checkbox"/> TITLE 8 of the RULES of the CITY OF NEW YORK (see column 4)	<input type="checkbox"/> NEW YORK GENERAL BUSINESS LAW (see column 3)
<input type="checkbox"/> NY AGRICULTURE & MARKETS LAW ARTICLE 16 (see column 3)	<input type="checkbox"/> Other _____ (see column 3)

1 CH	2 SUBCH	3 SECTION	4 REG./RULE NO.	NATURE OF VIOLATION	COUNTS
				PL# 1051742 - Delivered P.O. Entity has discontinued its illegal operation and has not apply for a license Entity has four games on premises - No evidence of activity	
NEA - Delivered P.O.					TOTAL

CAMIS ID #	TAX ID #	LICENSE NO.	START TIME 13:00	END/SERVED TIME 13:00	CERT. # 5148880
NAME (INDIVIDUAL, PARTNERSHIP, CORPORATION)				D.B.A.	TELEPHONE NO.
ADDRESS 308-16 Flatbush Ave			BORO 03	ZIP 11238	INSPECTION DATE 11/13/07

<input type="checkbox"/> PATROL (PTL)	<input type="checkbox"/> REQUEST (REQ)	<input type="checkbox"/> SUSPENSION (SUS)	<input type="checkbox"/> REVOCATION (REV)	<input type="checkbox"/> CONSENT JUDGEMENT ORDER (CJO)	<input checked="" type="checkbox"/> POSTING ORDER (POO)	<input type="checkbox"/> POSTING ORDER FOLLOW-UP (POF)	<input type="checkbox"/>
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<input type="checkbox"/> VIOLATION ISSUED	<input type="checkbox"/> LICENSED	<input checked="" type="checkbox"/> NO EVIDENCE OF ACTIVITY	<input type="checkbox"/> RESULT PENDING	<input type="checkbox"/> REINSPECTION	<input type="checkbox"/> BUSINESS PADLOCKED	<input type="checkbox"/> OBT. EVIDENCE OF ACTIVITY
<input type="checkbox"/> NO VIOLATION	<input type="checkbox"/> OOB	<input type="checkbox"/> NO LICENSE REQUIRED	<input type="checkbox"/> WARNING	<input type="checkbox"/> CONFISCATION	<input type="checkbox"/> W & M ORDER	<input type="checkbox"/>

INSPECTOR'S NAME LACUNA	INSPECTOR'S SIGNATURE <i>[Signature]</i>	DIV. EN7	UNIT LCS	VD. 147	BADGE 707
INSPECTOR'S NAME	INSPECTOR'S SIGNATURE	DIV. 11	UNIT 11	I.D. 11	BADGE 11

YOU ARE HEREBY ORDERED TO APPEAR FOR A HEARING ON THE ABOVE CHARGES ON THIS DATE AND TIME AT EITHER: THE ADJUDICATION DIVISION, 86 JOHN STREET, 11TH FLOOR, NEW YORK, NY 10038, OR LEGAL SERVICES DIVISION, 42 BROADWAY, 9TH FLOOR, NEW YORK, NY 10004

_____ AT _____ A.M. OR P.M.

VENDOR'S NAME (PRINT) <i>[Signature]</i>	VENDOR'S SIGNATURE <i>[Signature]</i>	POSITION	DATE / /
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RECIDIVIST <input type="checkbox"/> Y <input type="checkbox"/> N	PLEADING LETTER \$	DATE SENT / /	BY:	DATE SETTLED / /	FINE \$	<input type="checkbox"/> PAID <input type="checkbox"/> PAR <input type="checkbox"/> DNP	SETTLEMENT OFFICER
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PLEASE BRING THIS NOTICE WITH YOU



THE CITY OF NEW YORK Department of Consumer Affairs
 ---NOTICE OF HEARING FOR UNLICENSED ACTIVITY---

NOTICE OF HEARING FOR UNLICENSED ACTIVITY PL No Violation Observed/Disregard Hearing Information

THE ABOVE ENTITY IS HEREBY CHARGED WITH VIOLATING TITLE 20 OF THE NYC ADMINISTRATIVE CODE, CHAPTER 2, or ARTICLE NY STATE GENERAL BUSINESS LAW.

SUBCHAPTER 3 SECTION 20-212C NATURE OF VIOLATION COUNTS

Unlicense Amusement Arcades

At time of inspection, inspectors observed the below premises open and operating to the public with (8) common slot game machines plug-in and operating with patrons using/playing video games. The game machines are: (1) X-men, (2) Neo-Geo MVS multi video system, (3) Neo-Geo MVS multi video system, (4) Rumble fish 2, (5) Strikers, (6) Metal Slug (7) Battlecrazed, (8) Chinese game. Spoke to employee behind counter who stated that (4) of the machines belong to a different entity "CHEN'S GAMING". He also showed inspectors two business certificates/certificates of authority. However, no petitions of any kind was observed within premises. PP# 1046945 was issued on 6/2/2006 and the premises was still operating without a valid license.

I/WE AFFIRM UNDER PENALTY OF PERJURY THAT I/WE INSPECTED THE CITED PREMISE ON THE DATE AND TIME INDICATED BELOW AND MADE THE OBSERVATIONS CITED HEREIN. I/WE ALSO AFFIRM THAT SERVICE OF A COPY OF THIS DOCUMENT WAS MADE IN THE MANNER AND ON THE DATE AND TIME LISTED BELOW.

DATE SERVED/MAILED <u>9/27/06</u>	TIME SERVED <u>2:50</u>	DATE OF UNLICENSED ACTIVITY <u>9/27/06</u>	DESCRIPTION OF PERSON SERVED: SEX		
CAMIS ID#		TAX ID#	APPROX. AGE	APPROX. HEIGHT	APPROX. WEIGHT
NAME (INDIVIDUAL, PARTNERSHIP, CORPORATION)		D.B.A.	CERT.# <u>1046969</u>		
ADDRESS <u>ALLEN STREET</u>		BORO <u>01</u>	ZIP <u>10002</u>	INSPECTION DATE <u>9/27/06</u>	BUS. CODE <u>014</u>
DISTRICT	TELEPHONE NO. <u>(212) 431-2683</u>	LICENSE NO. (if applicable)		START TIME <u>1:50</u>	END TIME <u>2:50</u>
INSPECTOR'S NAME (1) <u>K. C. Lee</u>	INSPECTOR'S SIGNATURE (1) <u>[Signature]</u>		DIV. <u>ENF</u>	UNIT <u>411</u>	I.D. <u>3111</u>
INSPECTOR'S NAME (2) <u>A. Yusuf</u>	INSPECTOR'S SIGNATURE (2) <u>[Signature]</u>		DIV. <u>ENF</u>	UNIT <u>411</u>	I.D. <u>3125</u>

YOU ARE HEREBY ORDERED TO APPEAR FOR A HEARING ON THE ABOVE CHARGES AT THE ADJUDICATION DIVISION, 66 JOHN STREET, 11TH FLOOR, NEW YORK, NY-10038, ON THIS DATE AND TIME:
October 10, 2006 AT 9:30 (A.M.) or P.M.

READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION

A COPY OF THIS NOTICE WAS RECEIVED BY ME

VENDOR NAME AND POSITION (PRINT) Employee not authorize to sign. VENDOR SIGNATURE DATE 9/27/06

REC'D BY: Y N DATE SETTLED 1/1 BY: FINE \$ PAID PAR DNP SETTLEMENT OFFICER

WHITE - ADJUDICATION YELLOW - VENDOR PINK - ENFORCEMENT

BRING THIS NOTICE WITH YOU



SEP 22 2003

September 17, 2003

Cary David Kessler, Esq.
Farley & Kessler, P.C.
410 Jericho Turnpike, Suite 315
Jericho, NY 11753-1318

The New York City
Department of
Consumer Affairs
42 Broadway
New York, NY
10004-1716

Gretchen Dykstra
Commissioner

Mr. Philip De Dona
Vice President
A.N.T. Vending, Inc.
72-33 Grand Avenue
Maspeth, NY 11378

Re: Linked Coin-Operated Amusement Devices

Dear Mssrs. Kessler and De Dona:

Thank you very much for taking the time to bring to our attention your concerns about this Department's interpretation of Title 20, Chapter 2, Subchapter 3 of the New York City Administrative Code. I enjoyed meeting with you and discussing this matter.

Since our meeting on September 8, 2003, we have considered carefully the issues you raised and the Department's responsibility to enforce the law. We have concluded that the law does not contemplate, and, therefore, commencing October 1, 2003, we will not accept, the premise of the April 30, 2001 interpretive memorandum issued by former Commissioner Jane S. Hoffman, a copy of which is enclosed. As you know, Commissioner Hoffman's memorandum dictated that when two amusement devices have been linked and can be played by two people simultaneously; the two devices would be counted by the Department as one device for the purpose of ascertaining the number of devices on a given premises.

Therefore, as of October 1, 2003 and going forward, if an amusement device can be played by a single person, it shall be counted as an amusement device.

Please be assured that any citation issued after the enclosed April 30, 2001 interpretation issued and before October 1, 2003, will be handled in accordance with the dictates of the April 30, 2001 memorandum, to wit, two coin-operated amusement devices that are linked so that they can be played by two people simultaneously will be counted as one device. I note that we do not acquiesce in the view apparently taken by certain members of the industry that if three or more machines are linked so that they can be played by three or more persons simultaneously, all of the linked machines, regardless of their actual number, should be counted as one device.

Mssrs. Kessler and De Dona
September 17, 2003
Page 2

I know that the substance of this letter will be disappointing to you and the people you represent. I hope you can appreciate that this was not a simple or routine decision for us and that it is motivated, purely and simply, by our understanding of our responsibilities under the existing law. I would also like to tell you that your visit has spurred an internal inquiry regarding the proper regulatory role, if any, for this industry. We touched on this topic briefly in our meeting. If you have any additional thoughts on this matter, I would be more than happy to receive them, either in writing or, again, in person.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Mintz', with a large, stylized flourish extending to the right.

Jonathan Mintz
Deputy Commissioner

Enclosure



Jane S. Hoffman
Commissioner

The City of New York
Department of Consumer Affairs
42 Broadway, New York, New York 10004

Tel: (212) 487-4444
www.nyc.gov/consumers

April 30, 2001

TO: Distribution List
FROM: Commissioner Jane S. Hoffman *JSH*
RE: Amusement games played by two persons

An issue exists as to whether to treat amusement games which may be played by two persons, as one amusement device or two. These are typically road-type games where the players drive a car or motorcycle and compete against each other. They can be played separately although this is not the typical use.

Until further notice, these games should be counted as one device and not as separate games. Such a policy is reasonable and consistent with the Amusement Devices and Arcades Law.

Distribution List:

Deputy Commissioner Jody S. Hall
Robert Martin, General Counsel
Hector Serrano, Director of Enforcement
Alba Pico, Director of Licensing
Karen Miller, Acting Director of Adjudication

cc: Interpretation File



FOR IMMEDIATE RELEASE

PR- 227-07

July 3, 2007

MAYOR BLOOMBERG SIGNS LEGISLATION INCREASING BILLIARD TABLE THRESHOLD FOR BILLIARD ROOM LICENSE

Remarks by Mayor Bloomberg at a Public Hearing on Local Laws

"The next bill before me is Introductory Number 577-A, sponsored by Council Members Comrie, Fidler, James, Liu, Stewart, Weprin, Nelson, Seabrook, Gentile, Gennaro and Sears. This bill increases the number of billiard tables that would require an establishment to seek a billiard room license from the Department of Consumer Affairs (DCA).

"Currently, the law requires establishments with two or more billiard or pocket billiard tables to obtain a billiard room license from DCA. This puts an unnecessary burden on small businesses, including bars and lounges, that have two or more billiard tables but whose main function is not to serve as a billiard room.

"Introductory Number 577-A would raise the threshold for requiring a billiard room license to three tables, removing an unnecessary imposition on small businesses that offer their patrons the opportunity to play billiards incidental to their main trade.

"I would like to thank Consumer Affairs Commissioner Jonathan Mintz and his staff for their work on the bill. I would also like to thank the Council for approving this legislation."

MEDIA CONTACT:

Stu Loeser/Matthew Kelly (212) 788-2958

LL 32|07

Int. No 577-A

By Council Members Comrie, Fidler, James, Liu, Stewart and Weprin

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to billiard and pocket billiard rooms.

Be it enacted by the Council as follows:

Section 1. Subdivision 1 of section 20-216 of the administrative code of the city of New York is hereby amended, to read as follows:

1. "Billiard and pocket billiard room". Any room or place in the city in which billiards or pocket billiards are played, [or] and which includes three or more billiard or pocket billiard tables, which are available or held out to persons as being available, for the purpose of playing billiards or pocket billiards.

§ 2. Section 20-221 of the administrative code of the city of New York is hereby repealed.

§ 3. This local law shall take effect one hundred twenty days after it shall have been enacted into law; provided that the commissioner may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, establishing guidelines and promulgating rules.



April 17, 2008

Cary David Kessler, Esq.
Farley & Kessler, P.C.
410 Jericho Turnpike, Suite 315
Jericho, NY 11753-1318

The New York City
Department of
Consumer Affairs
42 Broadway
New York, NY
10004-1716

Jonathan Mintz
Commissioner

Susan Kassapian
Asst. Commissioner
212-487-3961

Re: Billiard tables Are Not Counted
For Arcade Law Purposes

Dear Mr. Kessler:

You had sought confirmation on whether or not our new legislation on billiard tables, signed into law on July 3, 2007, affects our "counting" of player-operated or pocket billiard tables when considering whether an establishment requires an amusement arcade license. The answer is "no."

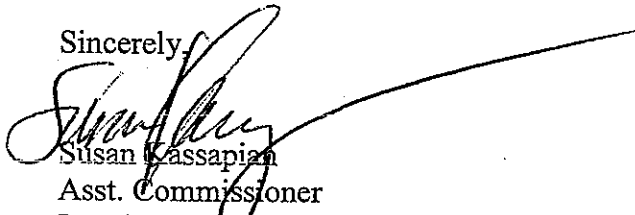
A player operated or pocket billiard table does not come within the definition of an amusement device or a player-operated amusement device, which are defined in the New York Administrative Code ("Code") Section 20-211, subsections a and b, respectively. An amusement device "carries and conveys passengers." A player operated amusement device is controlled by "mechanical, electrical or electronic components that are needed to operate or manipulate the game...."

Therefore, a player operated or pocket billiard table would not be "counted" for purposes of the definition and license requirement for an Amusement Arcade, for "any premises wherein there are operated, in any combination, five or more of the amusement devices defined in subdivisions a and b of this section. Code Section 20-211 c.

This has nothing whatsoever to do with the new "count" for billiard rooms which now only need a license if they have three or more tables.

I apologize for the delay in responding to your inquiry.

Sincerely,



Susan Kassapian
Asst. Commissioner
Legal Services
kassapians@dca.nyc.gov
212-487-3961

RECEIVED APR 21 2008

FARLEY & KESSLER, P.C.
ATTORNEYS AT LAW
410 JERICHO TURNPIKE, SUITE 315
JERICHO, NEW YORK 11753-1318
TEL: (516) 433-4220
FAX: (516) 939-9839

RICHARD L. FARLEY
CARY DAVID KESSLER*

COUNSEL
Beverly David Silver

*ADMITTED IN NY CONN AND WASH D C

August 22, 2007

Hon. Jonathan Mintz, Commissioner
City of New York Department of Consumer Affairs
42 Broadway
New York, New York 10004

Re: New Billiard Room License Law
City Council Introductory #577-A
Our File No. 27-101

Dear Commissioner Mintz:

We are in receipt of Mayor Bloomberg's announcement that the above referenced legislation has been signed into law by the Mayor on July 3, 2007.

In discussions with staff at the New York City Council, we understand that the Department of Consumer Affairs will not "count" player operated billiard or pocket billiard tables when considering if the amusement arcade law applies to any given location.

We would appreciate clarification of the Department's position on this subject similar to the letter we received by the General Counsel dated July 27, 1998.

Thank you for the Department's help and cooperation in connection with this matter. If a meeting will be helpful, we stand ready to meet

Very truly yours,


FARLEY & KESSLER, P.C.

Cary David Kessler, Esq.

CDK:dms

CC: AMOA New York Board of Directors

27100Mintz ltr

REMARKS OF RICHARD KIRBY, PRESIDENT OF BETSON ENTERPRISES, BEFORE THE NEW YORK CITY COUNCIL CONSUMER AFFAIRS COMMITTEE, HEARING ON AMENDING ADMINISTRATIVE CODE OF NEW YORK CITY, IN RELATION TO AMUSEMENT DEVICES, NOVEMBER 6TH, 2008

My name is Richard Kirby, President of Betson Enterprises based in Carlstadt, New Jersey which has a major business presence in the five boroughs, which is the largest distributor of coin-operated amusement and vending machines in the United States. Betson has twelve facilities located across the country, including one in upstate Syracuse.

I urge all of you to vote in favor of the proposed law in front of you, that would increase the amount machines per location from four to ten, within the boundaries of New York City

If passed, this would allow a number of small business vendors and entrepreneurs, the opportunity to install up to ten machines per location. What does that mean? In these harsh economic times every one of us are looking at different ways to stabilize our companies and find some relief.

Frankly, the tripling of gasoline prices of the past year, combined with other inflationary spiral items like food has depleted the spare change and pocket money that many of our customers use to play these amusements and jukeboxes. The failure of government to properly enforce infringement of the copyright laws on music played in commercial venues, has meant a severe loss of income for these businesses.

And many people with their hi-tech palm pilots and home computers have games which are far more powerful than what vendors in this industry are now offering in the marketplace. If we were able to change this antiquated law, it would afford the New York area vendors the opportunity to compete with amusements that are more exciting, more relevant, have better variety and choice, and overall greater customer appeal.

These business owners would be buying more equipment for most of their locations, which are bars, taverns, clubs, and entertainment centers. How does that benefit NYC?

---It would help increase employment. More pieces of equipment means more service needs, more providers and suppliers---all skilled blue-collar jobs, which NYC needs.

---It would create sales tax revenues from equipment sales, the purchase of hard goods, (ie-cars and trucks) it would stimulate taxes on food and beverages.

My company alone would probably add an additional \$600,000 to the sales tax. This may not sound like a lot, but if we are able to provide potential economic growth in many different industries, it will add up to a sizeable number

One of the reasons we need this new law is the amusement industry, its customers, and its culture has changed and continues to evolve daily. Most of our video machines are offered " on line " which means connected to DSL lines. This new technology allows customers to play in local and national tournaments! To better entertain the public, we now can offer players golf, hunting, trivia in real time competition. Add to the above mix of equipment, juke boxes, pool tables and dart machines and you can see why we are asking for this change in the law.

I want to point out that with the cost of major sporting event tickets going to astounding prices that are prohibitive to the average working person--the neighborhood bar, tavern, club, bowling alley, or entertainment center is indeed becoming more important to many New Yorkers. We feel that the opportunity for a vendor to offer up to ten amusements where it makes economic sense is important at this time.

Our Industry employs hundreds of people in the NYC region and we are hoping to be able to continue providing the entertainment that they expect. Basically, this industry has a proud legacy which has survived for more than 100 years.

I appreciate your time and please help us in our time of need.
Thank you

HEARING STATEMENT OF DANNY FRANK, EXECUTIVE
DIRECTOR, AMUSMENT AND MUSIC OWNERS ASSOCIATION
OF NEW YORK, INC., BEFORE THE NEW YORK CITY COUNCIL
CONSUMER AFFAIRS COMMITTEE, THURSDAY, NOVEMBER
6TH ...

Thank you for taking the time to consider this law to amend the administrative code of the City of New York with relation to amusement devices. I am the Executive Director of the Amusement And Music Owners Association of New York, Inc., a trade industry organization which has been around since the 1940's. I have been involved with this organization on-and-off since 1975.

In fact, I remember in 1977, sitting in the Blue Room at City Hall across the street, as Mayor Abraham Beame signed into law, the legalization of pinball games at the time. I had a full head of black hair back then, and I weighed a few pounds less!

But during what was an economic crisis in New York City at that time (do some of you remember it, when the City went to the brink of bankruptcy?), Mayor Beame in his wisdom saw the value of economic development for these small family businesses. He knew that more amusement games would be sold. He understood that consumers would be motivated to take money out of their pockets and spend it on electronic music and games...entertainment for themselves and their friends. Indeed, back then, what Mayor Beame did was an economic milestone for this industry.

Members of the Council, this industry needs similar help today. In 1975, this association represented about 300 business owners. In 2008, unfortunately through consolidation and shrinkage, we have a universe of sixty business owners in the greater NY metro region.

In contrast to many different causes and constituencies who come before the City Council and ask for monetary aid of say, \$5M or \$10M---all we are asking for is a "crust of bread"! Through this bill before you today, we are not asking for a cash handout. Instead we are asking you to give the business owners of this industry the ability and opportunity so that they can help themselves, so that they as demonstrated survivors and entrepreneurs can build their businesses. In turn, this will enable them to employ more people, to pay more taxes, to spin off income to other businesses like bars, taverns, clubs, bowling alleys, and entertainment centers....revenue which helps these enterprises pay items like rising utility Con Edison bills, rising oil heating costs, and more.

Consider that with all of the restrictions and prohibitions which have been placed on bars, taverns, clubs, and entertainment centers, especially in the past four or five years---many would be customers are now staying home, simply playing games on the Internet, and as you know, the rage is the offshore Internet gambling games. Then, there are children who today through their Pac-man and IPODs are carrying around high-tech devices in their school bags, which are more powerful and exciting than what our operators can competitively offer. This is what we are up against, and why we need the freedom and autonomy to go to ten games.

And before I conclude, I want to make a footnote on the IPOD: The widespread, illegal use of this has increasingly, severely hurt our industry the past three or four years, even though there are copyright laws on the books specifically prohibiting IPODs for commercial use

in public places. For more than thirty years, the business owners of our industry have consistently, loyally paid fees to recognized copyright organizations under government regulations, like ASCAP, BMI, RIAA, and SESAC for the right to operate jukeboxes. Now, when the rights of these businesses are being flagrantly violated, I must tell you that government enforcement by and large has been non-existent, and all public officials, unfortunately have turned a deaf ear. This failure of government to enforce the existing laws, has meant a major economic blow for our members.

Members of the Council, please support this change we are seeking to allow for ten coin-op devices...give these business owners and their employees some room to breathe, especially during this tough economic climate.

XXXXXXXXXXXXXXXXXX

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 853 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: MIKE MAAS
Address: 155 RITTENHOUSE CIRCLE
I represent: MERIT ENTERTAINMENT + ROWE/AMI
Address: 155 RITTENHOUSE CIRCLE
BRISTOL, PA 19007

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THE CITY OF NEW YORK**

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Name: CARY David Kessler Esq
Address: 410 Frides TAKE DAVID PA 17253
I represent: AMU-PA General Counsel
Address: _____

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Name: Joseph BOSSOLINA
Address: 701 GRAND Ave Ridgfield NJ
I represent: McBee Amusements, Inc
Address: SAME AS ABOVE

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Date: _____

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Name: Allen Weisberg

Address: 1107 E Gunhill Rd Bronx N.Y.

I represent: Apple Amusements Corp

Address: _____

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Date: 11/6/08

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Name: Frances Freedman, Assoc. Commish

Address: _____

I represent: NYC Dept. of Consumer Affairs

Address: 42 Broadway 8th floor

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

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Date: 11/5

(PLEASE PRINT)

Name: THOMAS FARANDA

Address: 1 Austin Place Clifton N.J.

I represent: AVS East

Address: 1 Austin Place Clifton N.J.

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 11/6/08

(PLEASE PRINT)
Name: Richard Kirby

Address: Carlstadt NJ

I represent: AMOA - New York

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THE CITY OF NEW YORK**

Appearance Card

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 in favor in opposition

Date: 11-6-08

(PLEASE PRINT)
Name: Danny Frank

Address: R2324, 1 Riverplace, NYC, NY

I represent: Amusement and Media Owners

Address: Association of NY, Inc

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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 in favor in opposition

Date: 11-6-08

(PLEASE PRINT)
Name: CHARLES T. FEITZ

Address: 5 VERONICA AVENUE

I represent: TRICORP Amusements Inc

Address: SOMERSET NJ

Please complete this card and return to the Sergeant-at-Arms